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Ian Copeman

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EXAMINER

HUYNH, SON P

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/873,944	Applicant(s) COPEMAN ET AL.	
	Examiner SON P. HUYNH	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 22 January 2008.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-7 and 9-50 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-7 and 9-50 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8, 9-50 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Zigmond, Schlack, and Alexander fail to teach the feature of "transmission schedule specifies when and how the individual network device is to receive one or more promotions, preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device (page 9, paragraphs 2-3, page 10, paragraphs 2-3, page 11, paragraph 1, 4). This argument is respectfully traversed.

Zigmond discloses event triggers, ad selection rules/criteria, ad parameters, etc. are predefined and provided by the advertiser, the video programming content provider, a third party operator of the advertisement source, etc. and providing user device for use to select appropriate advertisements for display as defined ad selection criteria/rule (see include, but are not limited to, col. 11, line 50-col. 12, line 42). The event trigger, ad selection rules, ad parameter, etc. are used to determine when the ad are received from the advertisement sources (e.g., ad is received according to local time, network,

program being display, etc., or triggering signal triggers the ad to be received at ad insertion device "on the fly", etc. (see include, but are not limited to, figures 2,4-6, col. 10, line 48-col. 13, line 6, col. 13, line 60-col. 14, line 56, col. 15, line 35-col. 16, line 20). Zigmond further discloses the event trigger, ad selection rules/criteria, or ad parameter, etc. are used to determine how the user device to receive the advertisement such as the trigger event interrupts displaying program to receive and display advertisement, receive program on particular network, or according to particular region, or particular segment, etc. (see include, but are not limited to, col. 7, lines 26-36, col. 8, lines 5-54, col. 10, lines 49-65, col. 11, line 31-col. 13, line 14, col. 13, line 40-col. 14, line 58, col. 15, line 35-col. 16, line 19). Thus, Zigmond discloses the transmission schedule specifies when and how an individual network device is to receive one or more promotions (interpreted as event trigger, ad selection rule, ad parameter, etc., specifies when and how a household device including ad insertion device is to receive one or more advertisement based on local time, network connection, household demographics, program being displayed, interrupting program being received and displayed, etc.).

Zigmond further discloses user device comprises means for collecting information relating to actions of the viewer in response to the display advertisement, user geographical information, user demographical information, system information, etc. One or more advertisements are provided/targeted to user device based on the collected information, system information and/or user preferences information (see include, but are not limited to, col. 9, line 20-col. 10, line 63, col. 11, line 13-col. 13, line 13), col. 14, lines 1-57). Thus, the feature of "preparing the individual network device to

receive the one or more promotions in advance of the one or more promotions being received by the individual network device” is interpreted as the step of collecting user demographic information, user geographic information, user responses to the display advertisement, and/or system information, etc. at the user device before the advertisements are targeted to the user device using the collected information.

For the reason given above, rejections on claims 1-7, 9-50 are analyzed as discussed below.

Claim 8 has been canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-34, 36-42, 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US 6,698,020 B1) in view of Schlack (US 7,185,353).

Regarding claim 1, Zigmond discloses a system for targeting promotions (advertisements, pay per view, subscription, special-interest television services, or the

like) to an individual network device (device at household— see include, but are not limited to, figures 3-5, 7-8, col. 6, lines 3-47), comprising:

a scheduler which generates a transmission schedule for transmission of promotion to an individual network device (video programming content provider including advertisement source, program source, ad trigger source, etc. generates event triggers, ad selection rules/criteria, ad parameters and provides them to user device - see include, but are not limited figures 1,5,7-8, col. 7, line 55-col. 9, line 52, col. 11, line 35-col. 12, line 43);

Zigmond discloses further event triggers, ad selection rules/criteria, ad parameters, etc. are predefined and provided by the advertiser, the video programming content provider, a third party operator of the advertisement source, etc. and providing user device for use to select appropriate advertisements for display as defined ad selection criteria/rule (see include, but are not limited to, col. 11, line 50-col. 12, line 42). The event trigger, ad selection rules, ad parameter, etc. are used to determine when the ad are received from the advertisement sources (e.g., ad is received according to local time, network, program being display, etc., or triggering signal triggers the ad to be received at ad insertion device "on the fly", etc. (see include, but are not limited to, figures 2,4-6, col. 10, line 48-col. 13, line 6, col. 13, line 60-col. 14, line 56, col. 15, line 35-col. 16, line 20). Zigmond further discloses the event trigger, ad selection rules/criteria, or ad parameter, etc. are used to determine how the user device to receive the advertisement such as the trigger event interrupts displaying program to receive and display advertisement, receive program on particular network, or according

to particular region, or particular segment, etc. (see include, but are not limited to, col. 7, lines 26-36, col. 8, lines 5-54, col. 10, lines 49-65, col. 11, line 31-col. 13, line 14, col. 13, line 40-col. 14, line 58, col. 15, line 35-col. 16, line 19). Thus, Zigmond discloses the transmission schedule specifies when and how an individual network device is to receive one or more promotions (interpreted as event trigger, ad selection rule, ad parameter, etc., specifies when and how a household device including ad insertion device is to receive one or more advertisement based on local time, network connection, household demographics, program being displayed, interrupting program being received and displayed, etc.).

Zigmond further discloses user device comprises means for collecting information relating to actions of the viewer in response to the display advertisement, user geographical information, user demographical information, system information, etc. One or more advertisements are provided/targeted to user device based on the collected information, system information and/or user preferences information (see include, but are not limited to, col. 9, line 20-col. 10, line 63, col. 11, line 13-col. 13, line 13), col. 14, lines 1-57). Thus, the feature of "preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device" is interpreted as the step of collecting user demographic information, user geographic information, user responses to the display advertisement, and/or system information, etc. at the user device before the advertisements are targeted to the user device using the collected information.

Zigmond further discloses a promotion agent subsystem, located at the individual network device that receives the transmission schedule from the scheduler, wherein the promotion agent processes the transmission schedule to receive the one or more promotions (e.g., the video switching in the device at household that receives trigger signal, ad selection rules, or ad parameters from the video programming content provider, the video switch processes the trigger signal, ad selection rules, etc. to receives selected advertisements – see include, but are not limited to, figure 5, col. 4, lines 35-52, col. 15, lines 35-65).

Zigmond also discloses collecting viewership profile generated from viewer usage data collected from the individual network device (i.e., viewer response to the selected advertisements, viewer's viewing habits, etc.) and a membership criteria which describes a particular demographic (i.e., age, sex, income, etc.), or geographic location (i.e., regional location, city, neighborhood or street address, etc.) and provided these collected information to advertiser, video programming content providers, third party operator for use to target promotion/advertisements to the particular device at the household (see include, but are not limited to, col. 10, line 35-col. 12, line 43, col. 13, line 59-col. 58, col. 17, lines 33-49, col. 19, lines 24-33). Zigmond also discloses components of ad insertion device may be located at a remote location (col. 7, lines 50-67. However, Zigmond does not explicitly disclose the transmission schedule for transmission the promotion is generated by matching i) a viewership profile generated from viewer usage data collected from the individual network device with ii) a

membership criteria which describes a particular demographic, viewership history, or geographic location.

Schlack discloses transmission schedule for transmission of promotion is generated for individual network device by matching i) a viewership profile generated from viewer usage data collected from the individual network device with ii) a membership criteria which describes a particular demographic, viewership history, or geographic location (in scheduling the ads, the ad scheduler 44 relies on market segment information, ad/avail information, subscriber information, and channel change information, wherein the subscriber information may identifying all or groups of subscribers on the network and their demographics or other characteristics (is read on membership criteria), and channel change statistics identify an average channel change frequency for subscriber/viewer... (is read on "a viewership profile generated from viewer usage data collected from the individual network device") – see include, but are not limited to, col. 5, line 63-col. 7, line 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to incorporate the teaching as taught by Schlack in order to improve bandwidth utilization for transmission schedule.

Regarding claim 2, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the system comprising a bulk manger

server (e.g. ad source, or third party advertisement provider, etc. see include, but are not limited to, col. 14, line 66-col. 15, line 16, figures 3-4).

Regarding claim 3, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 2. Zigmond further discloses bulk manager server stores promotions to be scheduled for display on the network device (see include, but are not limited to, col. 8, lines 1-12, col. 14, line 66-col. 15, line 16, figures 3-4).

Regarding claim 4, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 2. Zigmond further discloses the bulk manager server downloads the promotions to the bulk manager agent (see include, but are not limited to, col. 14, line 66-col. 15, line 16).

Regarding claim 5, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 4. Zigmond further discloses the scheduler sends schedule information to the promotion agent which processes the schedule information and transmits the processed scheduled information to the bulk manger agent (video programming content provider sends schedule information such as trigger event, ad selection criteria, etc. to video switch in the network device at the household, which detects trigger event, information in ad selection criteria, and transmits the processed scheduled information to the ad source to retrieve the ads for display to the user – see

include, but are not limited to, figures 4-5, col. 8, lines 30-64, col. 15, lines 35-65, col. 17, lines 25-32).

Regarding claim 6, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the schedule information includes a time schedule for displaying the promotions (e.g. triggering event indicating an appropriate time to display the selected advertisement – see include, but are not limited to, col. 8, lines 39-64, col. 15, lines 35-65).

Regarding claim 7, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the schedule information includes specified promotions for displaying the promotions (e.g., based on ad parameters, or ad selection rules – see include, but are not limited to, col. 11, line 31-col. 12, line 32).

Schlack also discloses schedule information includes specified promotions for displaying the promotions (e.g. based on ad information – see include, but are not limited to, col. 6, lines 1-21).

Regarding claim 9, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses a bulk manager server that retrieves the promotions from a database (see include, but are not limited to, col. 8, lines 1-12).

Regarding claim 10, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 9. Zigmond further discloses the promotions are stored in a cache (see include, but are not limited to, figure 5, col. 15, lines 12-34, col. 18, lines 7-14).

Regarding claim 11, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 9. Zigmond further discloses the scheduler instructs the bulk manager server to retrieve the promotions from the database and send the promotions to designated network devices (the ad source retrieves appropriate advertisements and send to network devices at the household for display in response to trigger event, ad selection criteria sent by the video programming content provider – see include, but are not limited, figures 3-5, col. 8, lines 30-64, col. 11, line 30-col. 12, line 67).

Regarding claim 12, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are displayed at a designated time (see include, but are not limited to, col. 8, lines 39-54, col. 15, lines 35-39).

Regarding claim 13, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are displayed when the viewers watch designated shows (col. 12, lines 44-60).

Regarding claim 14, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the membership criteria are based on demographic of the viewers who use the network device (see include, but are not limited to, col. 10, lines 48-63).

Regarding claim 15, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the membership criteria are based on geographic locations of the viewers who use the network device (col. 10, lines 48-63).

Regarding claim 16, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the membership criteria are based on channel and promotion history data (col. 10, line 48-col. 11, line 30).

Regarding claim 17, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. The limitation "the scheduler schedules the promotions for delivery to specific promotion groups" is either read on Zigmond (see col. 14, lines 34-58) or read on Schlack (see col. 6, lines 1-21).

Regarding claim 18, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 17. The limitation "the promotion groups are collections of network devices" is either read on Zigmond (e.g., network devices at different households (col.

10, lines 24-63; col. 14, lines 35-58) or is read on Schlack (see include, but are not limited to, col. 6, lines 1-21).

Regarding claim 19, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 18. Zigmond further discloses the promotion groups are based on matching the membership criteria to the viewership profile (e.g., men, women, certain age groups, etc. – see col. 14, lines 35-48).

Regarding claim 20, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1.

Regarding claims 21 and 23, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 3, and are analyzed as discussed with respect to the rejection of claim 3.

Regarding claims 24-25, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 9, and are analyzed as discussed with respect to the rejection of claim 9.

Regarding claims 22, 26-28, 30, 32, the limitations of the method as claimed correspond to the limitations of the system as claimed in claims 4,10,12, 13, 14, 19 and are analyzed as discussed with respect to the rejection of claims 4,10,12, 13, 14, 19.

Regarding claim 29, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 28. Zigmond further discloses the program includes a trigger in the broadcast (see include, but is not limited to, col. 4, lines 36-52).

Regarding claim 31, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 20. Zigmond further discloses the promotions such as advertisements are retrieved using phone line, or cable modem, or Internet, or World Wide Web connection, etc. (see include, but are not limited to, col. 10, lines 5-15). Thus, the promotions are inherently retrieved across a unicast medium.

Regarding claim 33, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotion agent subsystem at the individual network device collects data as to which the one or more promotions of the transmission schedule were actually watched by a viewer associated with the individual network device, and uploads the data collected to provide information relating to the success of the one or more promotions (see include, but are not limited to, col. 4, lines 53-67, col. 9, lines 21-55, col. 11, lines 13-30, col. 17, lines 32-49).

Regarding claim 34, the additional limitations correspond to the additional limitations of claim 33, and are analyzed as discussed in the rejection of claim 33.

Regarding claims 36-37, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are displayed covering a viewable screen, displayed covering a portion of the viewable screen (e.g. cross-over link overlays on conventional television display – col. 19, lines 1-8).

Regarding claim 38, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotion include promotional content presented in a multimedia format selected from a group consisting of audio, video, graphics, icons, Internet hyperlink, and combinations thereof (see include, but are not limited to, col. 9, lines 8-20, col. 18, lines 29-62).

Regarding claim 39, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are displayed in a format selected from a group consisting of a banner, a hot spot, and a full motion streams (e.g. cross over link, or full motion of pay per view, advertisement, etc. see include, but are not limited to, col. 9, lines 8-20, col. 18, lines 29-62, col. 19, lines 1-22).

Regarding claim 40, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are presented in a form

selected from a group consisting of an electronic program guide, a channel information bar, and an overlay for video broadcasting (see include, but are not limited to, col. 11, lines 1-12, col. 19, lines 1-32).

Regarding claim 41, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are simultaneously active within a video device, each of the promotions being independently selectable (see include, but are not limited to, col. 16, line 65-col. 17, line 8).

Regarding claim 42, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 41. Zigmond further discloses each of the independently selectable promotions is presented in a different form selected from a group consisting of an electronic program guide, a channel information bar, and an overlay, and an overlay of video broadcasting programming (see include, but are not limited to, col. 11, lines 1-12, col. 16, line 65-col. 17, line 8, col. 19, lines 1-32).

Regarding claim 44, Zigmond in view of Schlack teaches a system as discussed in the rejection of claim 20. Zigmond further discloses displaying selected promotions (see include, but are not limited to, col. 4, lines 45-52, col. 13, lines 40-52).

Regarding claims 45-50, the additional limitations as claimed correspond to the additional limitations as claimed in claims 36-38, 40-42, and are analyzed as discussed in the rejections of claims 36-38, 40-42.

4. Claims 35 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US 6,698,020 B1) in view of Schlack (US 7,185,353) as applied to claim 1, or 20 above, and further in view of Alexander et al. (US 6,177,931).

Regarding claim 35, Zigmond in view of Schlack discloses a system as discussed in the rejection of claim 1. Zigmond further discloses the promotions are advertisements or any type of video programming, such as pay per view, special interest television service, or the like (col. 6, lines 13-29). Thus, the promotions are full motions streams presenting commercial information. Zigmond also discloses at the appropriate time indicated by the trigger event, the video programming feed is interrupted and the selected advertisement is displayed to the viewer using a display screen of the home entertainment system (col. 4, lines 40-52). However, Zigmond in view of Schlack does not explicitly disclose the full motion stream presenting commercial information and covering an entire screen area.

Alexander, in an analogous art, discloses the promotions are full motion streams presenting commercial information and covering an entire screen area (e.g., customized advertisements, customized program guide data comprises video clips of future

program, video advertisement, etc. are displayed in full screen – see include, but are not limited to, col. 24, lines 21-30, col. 14, line 64-67, col. 6, lines 65-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond in view of Schlack with the teaching of displaying promotion cover entire screen in order to allow the viewer to view the promotion easier.

Regarding claim 43, the additional limitations as claimed correspond to the additional limitations as claimed in claim 35, and are analyzed as discussed with respect to the rejection of claim 35.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al. (US 20040117831) discloses Interactive television program guide system and method with niche hubs

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2623

March 31, 2008

